




LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, September 11, 2012
IberiaBank Building, 12th Floor Board Room
200 W. Congress Street, Lafayette, Louisiana
2:00 p.m.

AGENDA

1. Call to Order and Remarks by the Chairman
 - a. Welcome Chief Justice Calogero
 - i. Sam Dalton – Recognition of Justice Calogero
 - b. Welcome Juliet Yackel, Capital Case Coordinator
 - c. Executive Order BJ12-09, Per Diem Freeze pg. 445
2. Review of Agenda pgs. 443-444
3. Review and Approval of May 29, 2012 Meeting Minutes* **Tab 1**
pgs. 446-451
4. Welcome Betty Raglin, President, SWLBA
5. Budget Committee Recommendations & Updates **Tab 2**
 - a. Financial Report, Sept. 6, 2012* pgs. 452-453
 - b. FY 13 LPDB Budget (HB 1) pg. 454
 - c. FY 13 DAF Disbursement pg. 455-456
 - d. District 34 – Gernhauser Salary Increase* pgs. 457- 458
 - e. FY 13 SOAP Cases - Update
6. Policy Committee Recommendations & Updates **Tab 3**
 - a. LSBA Diversity Statement* pg. 459-460
 - b. Anti-Discrimination Statement* pg. 461
 - c. La.R.S. 15:147E – Legislative Amendment* pg. 462
 - d. File Retention Policy pgs. 463-465
 - e. Restriction of Services Guide
 - f. LPDB Staff Timesheets pgs. 466-467
 - g. Juvenile Regional Services Proposal pgs. 468-473
 - h. HB 325 Update pg. 479
 - i. Effect on Districts
 - ii. Record Keeping for Sunset Provision
7. NLADA Programmatic Membership* **Tab 4**
November 1, 2012 – October 31, 2013 pgs. 474-478
8. District 25 (Plaquemines) - District Defender*
9. Restriction of Services **Tab 5**
 - a. Districts in Restriction
 - i. District 14 (Calcasieu)
 - ii. District 41 (Orleans)
 - b. Districts Under Close Monitoring
 - i. District 7 (Catahoula-Concordia)
 - ii. District 9 (Rapides)
 - iii. District 10 (Natchitoches)

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- iv. District 21 (Livingston-St. Helena-Tangipahoa)
 - v. District 28 (LaSalle)
 - vi. District 32 (Terrebonne)
 - vii. District 37 (Caldwell)
 - c. Chart pg. 479
 - 10. Office Assessments **Tab 6**
 - a. District 22 pgs. 480-485
 - i. Letter of Recognition pg. 486
 - b. District 41
 - 11. Grants **Tab 7**
 - a. LCLE pg. 487
 - 12. Juvenile Division **Tab 8**
 - a. Working Group
 - b. Open Positions – Status
 - i. Compliance Officer Position pgs. 488-489
 - ii. Director of Juvenile Services pgs. 490-491
 - 13. Capital Update
 - a. Capacity
 - b. Certification Status
 - 14. Staff Updates **Tab 9**
 - a. SPD Report pgs. 492-503
 - b. FY 13 contracts pg. 504
 - c. IRS Update – District 3
 - d. LACE Program
 - e. Monroe City Court
 - f. Social Media Posts pgs. 505-513
 - 15. Next Meeting Date
 - 16. Other Business
 - 17. Executive Session¹
 - a. Orleans Traffic Court
 - b. Stanley v. Casanave
 - c. Anderson v. LPDB
 - 18. Adjournment* *Requires Board Action

¹ The Board may vote to go into Executive Session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss legal action against the New Orleans Traffic Court.



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

September 11, 2012

Iberia Bank, 200 West Congress Boulevard, 12th Floor

Lafayette, Louisiana

2:00 PM

MINUTES

1. Call to Order and Remarks by the Chairman.

A meeting of the Louisiana Public Defender Board pursuant to lawful notice was duly convened and called to order by its Chairman at 2:15 p.m. on Tuesday, September 11, 2012, at the IberiaBank Building, 12th Floor Board Room in Lafayette, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Sam Dalton
Leo Hamilton
Frank Holthaus
Dan Krutz
Tom Lorenzi
Pam Metzger
Gina Womack

The following Board Members were absent:

Luceia LeDoux
Lucy McGough
Jacqueline Nash
Herschel Richard
Majeeda Snead

The following *ex officio* Board Member was present:

Rebecca Hudsmith

The following *ex officio* Board Member was absent:

Robert Brinkman

The following members of the Board's staff were present:

Jean M. Faria, State Public Defender
Julie Kilborn, First Assistant State Public Defender
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Erik Stilling, ITM Officer
Angel Williams, Budget Officer
Juliet Yackel, Capital Case Coordinator

Mr. Neuner welcomed guest retired Chief Justice Pascal Calogero and new LPDB employee Capital Case Coordinator Juliet Yackel.

Mr. Neuner brought to the Board's attention Executive Order BJ 12-09 which freezes per diem payments to Board members indefinitely. This Order does not affect other expense reimbursements to Board members under the State Travel Regulations.

Board Member Sam Dalton asked to address the Board. Mr. Dalton announced his resignation from the Board effective at midnight on September 12, 2012. Mr. Dalton thanked the Board and all public defenders statewide for their adherence to the common mission. Mr. Dalton received a standing ovation.

Mr. Neuner thanked Chief Justice Calogero for his public service and presented a proclamation bestowing honorary Board membership upon Justice Calogero. Mr. Dalton read the proclamation which is signed by Chairman Neuner and seconded by Board Member Judge Robert Burns. The resolution establishes the Pascal F. Calogero, Jr. Award, which is to be presented annually to one outstanding public defender.

2. Review and Approval of the Agenda. There being no changes, the agenda was approved as presented.

3. Review and Approval of the Minutes - May 29, 2012*. On motion of Mr. Hamilton, seconded by Professor Metzger, the Minutes of the May 29, 2012 meeting were approved as presented without opposition.

4. Welcome Betty Raglin, President, SWLBA. Southwest Louisiana Bar Association President Betty Raglin addressed the Board regarding the recent service restriction in the 14th Judicial District (Calcasieu). Ms. Raglin offered her assistance to other districts facing the restriction of services.

5. Budget Committee Recommendations and Updates.

a. Financial Report, September 6, 2012.* Budget Officer Angel Williams gave a brief report on the current financial status of LPDB. LPDB was given a FY13 appropriation of \$33.3 million. To date LPDB has spent or encumbered \$15.4 million of those funds.

b. FY 13 LPDB Budget (HB 1). Ms. Williams reported that LPDB received 79% of its overall request for FY 13.

c. FY 13 DAF Disbursement. Dr. Erik Stilling presented the DAF disbursement in the form of a chart. He informed the Board that the initial disbursement to the Districts of \$7.9 million represents one-half of the assistance funds in addition to \$489,840 in CINC funds.

d. District 34 – Gernhauser Salary Increase*. Staff considered the 34th District Public Defender Office's current financial situation, level of services, supervision, and caseloads,

as well as the District Defender salary ranges and methods of computation to reach its recommendation to the Budget Committee to grant Mr. Gernhauser's salary increase request. The Budget Committee moved to raise Mr. Gernhauser's annual salary from \$80,000 to \$92,000. The motion was seconded by Tom Lorenzi and passed unopposed.

e. FY 13 SOAP Cases Update. Ms. Kilborn informed the Board that staff is working with the Division of Administration and the Joint Legislative Committee on the Budget to provide funding for Sex Offender Assessment Panel (SOAP) cases. The current dialogue with other agencies is for a \$500,000 appropriation for statewide representation. Ms. Kilborn explained that staffs' recommendation for the handling of these cases is to contract with attorneys who are not public defenders. The funding issue is on the September 21, 2012 Joint Legislative Committee on the Budget's (JLCB) agenda.

6. Policy Committee Recommendations and Updates.

a. LSBA Diversity Statement.* Ms. Kilborn presented the Diversity Statement which the LSBA has provided for other agencies to voluntarily adopt.

b. Anti-Discrimination Statement. Ms. Kilborn presented staffs' draft of an Anti-Discrimination statement to be applied to the delivery of services to clients. She further explained that there was no discriminatory action or issue that prompted the statement but rather resulted from a request from national defense partners, especially those involved in juvenile work.

Mr. Neuner informed the Board that both statements are approved by the Policy Committee. On motion of Tom Lorenzi which was seconded by Leo Hamilton, both statements were adopted unanimously.

c. La. R.S. 15:147E – Legislative Amendment. The employment issue which arose in District 3 (Lincoln/Union Parishes) concerning the reporting to the IRS of payments to independent contractors and regular employees which resulted in an unfavorable IRS decision was discussed. General Counsel Roger Harris reported to the Board that District 3 has requested the amending of the language in La. R.S. 15:147E which would aid in resolving the issue statewide should it come up again. Mr. Harris reported that Senator Rick Gallot (District 29) has indicated a willingness to present this change in the upcoming Legislative session.

Mr. Harris suggested that because the upcoming Legislative session is a fiscal session, LPDB should submit one consolidated bill to include the following additional changes to the statute: 1) deletion of the requirement that the Board hold three of its eight mandatory meetings outside East Baton Rouge Parish; 2) update of the statutory description/qualifications for the Deputy State Public Defender/Director of Juvenile Service; and, 3) lowering the number of annual mandatory Board meetings from eight to six. A brief discussion followed. All four proposed changes were submitted by motion of the Policy Committee and seconded by Mr. Hamilton. There was no opposition and the motion passed unanimously. Staff was tasked with drafting the proposed legislation and asking Senator Gallot if he would consider submitting all four statutory changes in one bill to the Legislature in 2013.

d. File Retention Policy. Ms. Kilborn reported that staff continues to work on a policy for file retention in the district offices with the goal being to meet the potential needs of clients but not overburden the offices. Staff is researching the cost of scanning equipment. There were numerous concerns expressed and discussed and suggestions made on moving forward.

e. **Restriction of Services Guide.** Ms. Kilborn presented the Service Restriction Guide which was compiled for use by any district which must prepare a restriction plan.

f. **LPDB State Timesheets.** Ms. Kilborn presented the two timekeeping templates for administrative and executive staff. Staff has been logging activities since June and will continue to do so to support efforts in demonstrating the need for more staff.

g. **Juvenile Regional Services Proposal.** Ms. Kilborn reported that she and Mr. Neuner had met with Juvenile Regional Services Executive Director Josh Perry who submitted a comprehensive offer for services. Mr. Perry has been informed that LPDB does not have the funds for these services.

h. **HB 325 Update**

i. **Effects on Districts.** Mr. Neuner reported that on June 26, 2012 Governor Jindal signed Act 578 making the \$10 increase law. Dr. Stilling indicated that there still is no clear itemization to the districts of remittances and further reported that other statewide and district-wide problems exist in the individual ways in which tickets are issued.

ii. **Record Keeping for Sunset Provision.** Mr. Neuner reminded the Board of the sunset provision on the \$10 increase in which LPDB is required to report how the additional funds have been spent. Mr. Harris stated that he and Ms. Kilborn are planning to meet with the Legislative Auditor near the end of the year to report which agencies are not itemizing remittances to the district public defenders.

7. **NLADA Programmatic Membership.*** Mr. Neuner briefed the Board on the issue of LPDB's cancellation of its programmatic membership with NLADA. District Defender Paul Marx informed the Board that Mr. Neuner's recent letter regarding LPDB's disappointment in NLADA's handling of the situation was taken very seriously. Mr. Marx also indicated the membership provides a huge resource for the district offices. Ms. Faria clarified that LPDB's programmatic membership includes all the public defender offices' memberships as well. After a brief discussion, it was agreed that LPDB would continue its membership with NLADA. No further action was taken.

8. **District 25 (Plaquemines) – District Defender.*** Mr. Neuner reported that District Defender Peter Barbee's (District 25, Plaquemines Parish) contract for services was not renewed. Mr. Richard Tompson (District 24) agreed to take the interim position pending the hiring of a new District Defender. Mr. Neuner asked the Board to affirm Mr. Tompson's interim status until after the first of the year or until such time as Mr. Tompson is able to submit a report on the Plaquemines Public Defender Office's operations. Judge Burns moved to affirm interim status for Mr. Tompson which was seconded by Mr. Holthaus. The motion passed unanimously.

9. **Restriction of Services**

a. **Districts in Restriction.** Ms. Kilborn reported that the service restriction plan from District Defender Jay Dixon (District 14/Calcasieu) is being used as a guide for other districts.

b. **Districts Under Close Monitoring.** Ms. Kilborn stated that projections show that several districts will not have enough funds for the current fiscal year; however, these districts have made cuts to minimize the likelihood that services will have to be restricted. Staff will continue to closely monitor these districts. Ms. Kilborn further reported that staff will also continue to monitor Orleans Parish until December 5, 2012, which is 90 days from the termination of their service restriction plan.

10. **Office Assessments**

a. District 22. Mr. Neuner informed the Board about a favorable report on District 22 (St. Tammany/Washington) from Mr. Lewis and Mr. Goyette who performed a site visit to follow up on Mr. Lewis' BJA report.

i. Letter of Recognition. Staff drafted a Letter of Recognition to Mr. John Lindner, Mr. Kevin Linder and Mr. John Hogue for the great strides they have made in a short period of time.

b. District 41. Mr. Neuner reported the Orleans Parish Public Defender Office has been given a deadline to respond to the recent recommendations provided by Mr. Lewis and Mr. Goyette. Mr. Derwyn Bunton addressed the Board and expressed his appreciation of the assessment and indicated that some of the recommendations already are being implemented. The OPD response is to be submitted to the Board at their next meeting.

11. Grants.

a. LCLE. Ms. Kilborn reported the LPDB submitted a \$103,000 grant application to LCLE to be used for an auditor position. Grant recipients are to be announced on September 12, 2012.

12. Juvenile Division

a. Working Group. Ms. Faria reported that the Juvenile Working Group is working on the juvenile strategic plan.

b. Open Positions - Status. Ms. Faria further reported on the two open juvenile positions and that changes to the Director of Juvenile Defender Services job description are being drafted to be presented at the upcoming legislative session.

13. Capital Update. Ms. Faria reported that the three capitally certified public defenders in District 1 (Caddo) have all withdrawn their applications for certification rendering that district office void of available capital counsel.

Mr. Lorenzi addressed the recent certification process. Mr. Lorenzi commended fellow Board member Herschel Richard and others for their contributions and efforts in the certification process.

14. Staff Updates. Ms. Faria brought the new First Assistant State Public Defender position to the attention of Board. The new division of duties will provide a decreased workload for the State Public Defender.

Mr. Harris reported that the contract program contracts for the first half of FY13 have been submitted to OFSS/OCR for approval.

Mr. Harris provided an update on the IRS issue in District 3. Staff was instructed to draft a letter of thanks to Mr. Ralph Stephens for his pro bono work on this issue at the appropriate time.

Mr. Harris informed the Board that it is still not known if Local Agency Compensated Endeavor (LACE) funds are being applied as they should be under La. R.S. 15:168 as it appears that only a handful of District Attorney's clearly identify LACE funding in their financial reports. In addition, Mr. Harris reported that two-thirds of all District Attorneys are not properly reporting payments made to District Attorneys and their Assistants by the State of Louisiana, causing the District Attorneys financial reports to be underreported by at least \$10.0 million

collectively. Mr. Harris also reported that LPDB has written the Legislative Auditor and requested that his office review and enforce the correct reporting of LACE proceeds and State receipts.

Mr. Harris reported that Staff has requested a review by the Attorney General of their recent opinion on the collection of fines and fees by Monroe City Court.

Ms. Kilborn announced that LPDB now has active FaceBook and Twitter accounts.

15. Next meeting(s). The next meeting will be Thursday, November 8, 2012. The location will be announced. Policy Committee will begin meeting at 1:00 rather than 12:00 p.m.

16. Other Business. There was no other business brought up for discussion.

17. Executive Session. Upon motion by Professor Metzger, seconded by Reverend Krutz, the Board went into Executive Session.

18. Adjournment. Upon motion by Rev. Krutz, seconded by Tom Lorenzi, the meeting adjourned at 4:45 p.m.

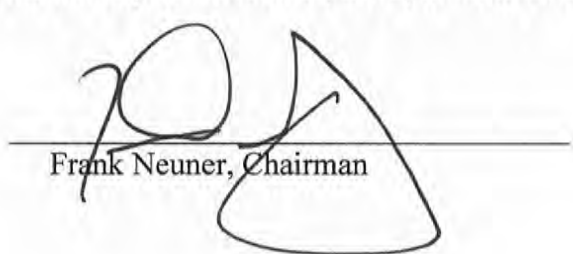
Guests Present:

Vic Bradley
Tony Champagne
Bradley Dauzat
Derwyn Bunton

Richard Tompson
Brian McRae
Steven Thomas
Alan J. Robert

Paul Marx
Jim Looney

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 11th day of September, 2012, as approved by the Board on the 8th day of November, 2012, in New Orleans, Louisiana.



Frank Neuner, Chairman